IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 6TH DECEMBER 2006 / 15TH AGRAHAYANA 1928

Bail Appl..No. 6988 of 2006()

CRIME NO. 334 OF 2006 OF THE MEDICAL COLLEGE POLICE STATION, KOZHIKODE
CMP.3304/2006 of J.M.F.C.,KUNNAMANGALAM

.....

PETITIONER/ACCUSED

K.ABDUL LATHEEF, S/O.MUHAMMED,
ELAMBILASSERY HOUSE, KAVANOOR,
MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: STATE

THE STATE OF KERALA,
REP. BY THE ASSISTANT COMMISSIONER OF POLICE,
CRIME DETACHMENT, KOZHIKKODE CITY-THROUGH
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

BY DIRECTOR GENERAL OF PROSECUTIONS SRI. P.G. THAMBI

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 04/12/2006, ALONG WITH BA NO. 7064 OF 2006 BA NO. 7075 OF 2006 BA NO. 7188 OF 2006 THE COURT ON 6-12-2006 PASSED THE FOLLOWING:

V. RAMKUMAR, J.

* * * * * * * * * * * * * * * * * * * *

B.A. Nos. 6988/06,7064/06,
7075/06 & 7188/06

* * * * * * * * * * * * * * * * * * * *

Dated, this the 6th day of December 2006

ORDER

In this petition filed under Sec. 439 Cr.P.C. accused Nos. 8, 10, 9 and 7 respectively in Crime No. 334/06 of Medical College Police Station, Kozhikode, for offences punishable under Secs. 120 B, 121, 121A, 465, 468, 471 read with Sec. 34 I.P.C. and Sections 7 and 14 of the Foreigners Act, 1946, Sec. 12(b) of the Indian Passport Act and Section 7 read with Section 13 (1)(a) of the Prevention of Corruption Act, 1988, seek their enlargement on bail.

2. I heard the learned counsel for the petitioner and the learned Director General of Prosecutions Sri.P.G. Thambi.

3. The Director General of Prosecutions opposed the application, He made available to me the case diary files.

4. From the investigation conducted thus far, the following are the 10 accused persons whose complicity has been revealed:-

A1- Fahad @ Muhammed Koya, Pakistan National

A2- Abdulla Koya @ Abdulla Haji, Pakistan National - Father of A1

A3- Kammad Haji, father of A4, Badariya Manzil, Pallithazham, Kayalam - unauthorisedly permitted A1 and A2 to stay in his house between 26-2-2006 and 28-8-2006.

A4- Fathima Beegum, D/o. A3 and wife of A5.

A5- Nasar, husband of A4. A3 to A5 concealed the arrival and stay of two foreigners (A1 and A2) in their house.

A6- Rahmathulla V.P. Travel Agent at Kavannur, within the limits of Areacode Police Station.

A7- Muhammed Ali, Head Constable, Special Branch, deputed to Areacode Police Station on special duty for police verification etc.

A8- Abdul Latheef - Postman of Kavannur Post Office

A9 - M. Alavi, Police Constable in the District Passport Office Cell

A10- V.M. Muhammed Afsal, 21 years.

5. In the wee hours of 27-10-2006 a Pakistan National by name Fahad @ Muhammed Koya (A1) was arrested along with one of his accomplice after an encounter by the Inspector of Police and his party of Vijayanagar Police Station in Mysore City in the State of Karnataka. In that connection a case was registered as Crime No. 165/06 under sections 307, 332, read with Sec. 34 I.P.C., Sec. 25 (d), 25(3) (1a) 25 (A) (1,b), 25 (4)(f), 27(2), 28 of Indian Arms ACt and Sec. 14 of Foreigners Act, 1946. The police party also seized two Pakistan Passports from the assailants besides recovering two sophisticated weapons from them. It was noted that A1 had also illegally acquired an Indian Passport from the Passport Office, Kozhikode under a bogus name Muhammed, S/o. Koya, aged 24, Naduvathani House, Kavanoor (PO), Via. Areacode, Malappuram

District. The Karnataka police got in touch with the Medical College Police Station, Kozhikode, in the evening of 28-10-2006 for an enquiry regarding the past history of the accused. Investigation by the Kerala police revealed that A3 to A5 had unauthorisedly permitted A1 and his father A2 (both of whom are Pakistan Nationals) to stay in their house at Kayalam during the period between 26-2-2006 and 28-8-2006. A3 to A5 had concealed the arrival and stay of the above foreigners in their house thereby committing offences punishable under Sections 7 and 14 of the Foreigners Act, 1946. Further investigation revealed that an application for passport under the fake name of Muhammed, S/o. Koya, aged 24, Naduvathani (H), Kavannoor P.O. Areakode (Via), Malappuram District was made in the passport office, Kozhikode. The supporting documents produced along with the application were all found to be bogus documents. The application for passport was arranged to be submitted by A6, Rahamathulla , a travel agent at Kavannoor and who is related to A7, Muhammed Ali who is a head constable attached to the Special Branch Police and deputed to the Areacode Police Station exclusively for conducting passport verification, job verification and other important matters. On 13-6-2006, the application for passport in the fake name was received in the District Special Branch Office,

Malappuram, for verification. Accused Nos 2 to 5 had assisted the first accused to secure the passport through the 6th accused. The 10th accused Muhammed Afsal who had taken up residence near the house of A3 was the main link between A1 and the other accused in the process of securing the fake Passport. The role of A8, Abdul Latif the postman of Kavannoor post office was to deliver the passport in the fake address knowing the same to be false.

6. The investigation has revealed the involvement of accused Nos. 3 to 10 in the act of harbouring the two pakistani nationals (A1 & A2) and successfully securing the first accused a Passport in a fake name. It is too early to conclude that the involvement of A7 to A9 was only for receiving illegal gratification for doing official favours. The first accused is found to be an active member of a terrorist organization namely "AL-BADAR" based at Jammu and Kashmir and which is indulging in anti-national activities against the Indian nation with a view to subvert the Government of India. The first accused had attempted to open a shop at Calicut City for the purpose of operating his anti-national activities under the pretext of opening a computer shop. He had also planned to get a marriage alliance from the family of accused Nos. A3 to A5 but with his arrest from Mysore the above plan was foiled. During the investigation of the case it has also come

out that in the months of October 40 passports were issued from the newly opened passport office at Malappuram and out of them 12 were seen issued to bogus address resulting in the registration of a case as Crime No, 363/06 for offences punishable under Secs. 468, 471, 472, 474 and 420 I.P.C. and Sections 7 and 13 (1)(a) of the P.C. Act and Section 12 (a) of the Indian Passport Act, 1967. The said case has since been transferred to the Areacode Police Station where it has been re-registered as Crime No. 449/06.

7. The investigation of this case is still in the preliminary stage and the nature and extent of the complicity of each and every accused in the case are being meticulously probed by the investigating agency. If at this stage of investigation, four of the alleged conspirators are released on bail, it will definitely hamper the smooth investigation of the case. I am not inclined to grant bail to the petitioners.

These bail applications are dismissed.

**Sd/-V. RAMKUMAR,
(JUDGE)**

/true copy/

P.A. to Judge.

ani.

ani.